

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

00 JUL 17 AM 10:00

LIEUTENANT DUKES, JR., }
 }
Plaintiff, }
 }
v. }
 }
UNITED STATES DEPARTMENT OF }
LABOR, et al., }
 }
Defendants. }

U.S. DISTRICT COURT
N.D. OF ALABAMA

CIVIL ACTION NO.

00-AR-0887-S

ENTERED

JUL 17 2000

MEMORANDUM OPINION

On July 14, 2000, the court heard oral argument on defendants' motion to dismiss and plaintiff's objection to that motion. Because plaintiff is *pro se*, he was and is given the benefit of every doubt. His only explanation for his repetitive filings in this court is that he now has evidence that he did not have when Judge Blackburn of this court dismissed virtually the same, if not exactly the same, action. This court takes judicial notice of all pleadings and orders in the cases filed in this court. The defense of *res judicata*, which this court endeavored to explain to plaintiff during oral argument, is available to a defendant on motion to dismiss if the prior proceeding relied upon as the defense was in the same court. It is clear that plaintiff is presenting the same claim he has already unsuccessfully presented.

If plaintiff's complaint is construed to be a collateral

attack on prior judgments of this court, it fails to state such a claim and is not susceptible to successful amendment to state such a claim.

A separate order granting defendants' motion will be entered.

DONE this 17th day of July, 2000.

A handwritten signature in black ink, appearing to read "William M. Ackers, Jr.", written over a horizontal line.

WILLIAM M. ACKER, JR.
UNITED STATES DISTRICT JUDGE